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Blanding, UT 84511

FILED
U.S. DISTRICT COURT
2019 MAR 22 P 1:39
DISTRICT OF UTAH

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| United States District Court District of Utah, Central Division | |
| United States of America, Plaintiff | Case No. 2:14-CR-00470 DN |
| Vs | Motion to Deny the Request to Amend the Manner and Schedule of Payment of Restitution |
| Phillip Kay Lyman, Defendant | Judge David Nuffer |

Dear Judge Nuffer:

I am writing in response to the U.S. Attorney's motion to amend my restitution order. I will not go into the details of my case since you are already familiar. My pay as a legislator is roughly \$25,000 less than the pay I gave up as a commissioner. Perhaps that is enough information for you to make a determination, but given the amount of information, and misinformation, provided by U.S. Attorney, Allison J.P. Moon, I am compelled to respond with more than this obvious fact.

This filing constitutes my motion to deny the U.S. Attorney's motion to amend my restitution order.

It is troubling to me that certain people in the U.S. Attorney's office feel compelled to continually harass me and pillory my name and reputation. Judging from the tweets (and bad math) of Ms. Moon, I am inclined to believe that her malice is politically motivated. I have learned from my own case as well as the constant barrage of distasteful news stories in the

main stream media that this sort of denigration is the modus operandi of many in positions of power, so it is not a surprise that my giving up a political office that pays \$45k per year for one that pays \$20k per year would be construed by Ms. Moon and Mr. Huber as an increase. I think it bears mentioning that I was elected to this office by the people in my district. It is a heavy responsibility with enormous personal and financial costs, aside from the devastation to my business and reputation by these false and malicious attacks on my reputation by the U.S. Attorney and the media.

When I was contacted by reporter, Debbie Dujanovic, from KSL last December, I told her that, from my experience, when the U.S. Attorney is preparing to file a defamatory motion, they typically strategize with the media to do a smear campaign in advance. I asked Ms. Dujanovic if she had come to town with one of the U.S. Attorneys, which she denied. No sooner had she left my office than I received a call from the San Juan County Administrator that a Joey Brittol (or something like that) from the U.S. Attorney's office had been at the county building digging up what he could on my county compensation. They said that there was a KSL news camera crew waiting outside. It turns out that my hunch was spot on. This type of collusion is truly repugnant to people unfamiliar with the machinations of our so-called justice system. If you missed the story, I hope you will take a look at it to see just how slanted the media, working in concert with the U.S. Attorney, can be. Connecting me to Ponzi schemers and white-collar criminals who allegedly stole millions of dollars from innocent people is nothing but bald-faced defamation. Here is the link to her final product - <https://www.ksl.com/article/46511640/ksl-investigates-why-federal-court-ordered-payments-to-crime-victims-often-go-unfulfilled>

I would have hoped that the U.S. Attorney's office would adhere to an ethical standard, but I have learned from very sad and expensive experience that that is not the case. Any federal employee who uses their position to denigrate innocent people and to target them purely for spiteful reasons should not be allowed to retain their position.

Your Honor, you mentioned at my sentencing that you had, at that time, spent the past couple of weeks reading my case. As truly appreciative as I was then, I wished you had taken the opportunity to read the case three months earlier, prior to the restitution hearing, or several months prior to that when you made your decision to deny my motion for a new trial following Judge Shelby's recusal.

The BLM does not have a road in Recapture Canyon. They don't have a pipeline maintenance road. The only road in the canyon is the county road, D5314, which was open and legal on May 10, 2014, the day of our peaceful, advertised, permitted protest, and is open today. Out of respect to what I believed was a friendship with Juan Palma, he and I had mutually agreed that I would stop at the point in the road where the buried pipeline exits the canyon - the end of D5314, which is exactly what happened, and which Jared Bennett, John Huber, Lake Dishman, the BLM including Juan Palma, and Robert Shelby went to great lengths, including perjury, brady violations, and ethics breaches, to keep from coming to light. There are three roads in Recapture Canyon. The road we used to stage our "celebration" (as Juan Palma called it) ends at the point the pipeline exits the canyon. Out of courtesy to the BLM, and to avoid misunderstanding over the event and the road, both of which were not under the BLM's authority, I communicated every aspect of our plans with Juan Palma, the state BLM director,

but because Judge Shelby had proclaimed our guilt prior the start of the trial, his only objective from then on was a conviction, accompanied with all the negative attention he could generate toward me from the special interest groups that created his conflict in the first place. This is collusion. It is the opposite of justice. It is the opposite of a fair trial. I spent hundreds of thousands of dollars simply to bring this decay to light, not only for my own acquittal but for the exoneration of others in my community whose lives have been destroyed by this same jiggery pokery.

As the new U.S. Attorney, Mr. Huber said that his top priorities were White Collar Crime, the war on drugs, and prosecuting the Recapture Canyon protest to "Show that even elected officials are not above the law." How I wish he would have taken two minutes to look at the facts of that protest instead of responding to cries of recrimination for the injustice inflicted on Tim DeChirstopher. Groups like the Alliance for a Better Utah sending petitions to Mr. Huber should have no effect whatsoever on the wheels of justice, yet Mr. Huber said that he had to do something because of the outcry. He set justice aside and washed his hands. It is wrong in every respect and is viewed as such by honest people who know the truth. Convicting me and Monte Wells did not show that "no one is above the law," it showed that people must fear false prosecution if they dare to criticize the BLM or if they become an elected official. It has a chilling effect that does tremendous damage to our system of representative government.

When my recorded phone call from Juan Palma was illegally squashed by Judge Shelby at trial and, it was clear that my trial was not about discovering the truth of the events of May 10, 2014

in Recapture Canyon. Here is a link to the last of that phone call -

<https://www.youtube.com/watch?v=7q1C0oAvALA>

You said in the restitution hearing that I knew people would take the shortest route back to the park, and then proceeded to award the harshest financial penalty you could. It was not until months later when you said you had actually read the case that you decided that our previously ordered restitution would be paid back at \$100 per month without interest. Thank you for that compassionate concession. The truth is that the shortest way back to the park was not through the canyon by any stretch of the imagination. The winding road through the canyon is not only several miles longer but would require a person on an ATV to crawl through rough terrain and overgrowth. There is a reason the BLM officer who reported 4 trail cameras setup in the canyon could not produce a single photograph of people traveling the trail. It is because people did not travel the trail, but did exactly as you suggested they would do – they turned around and drove back down the road and to their homes in 5 minutes, when driving through the canyon would have taken two hours.

I don't claim to know what information you will consider when determining whether to sign the order that Ms. Moon prepared for your signature. I will not take the same liberty of drawing up an order for you to sign, but if you were to sign an order it should be a cease and desist order to the U.S. Attorney's office, the IRS, the BLM, and the activist groups that have taken it upon themselves to exact their sick idea of justice on me and Monte Wells. If you were inclined to correct the gross miscarriage of justice that was initiated by Judge Shelby, who later admitted to conflict due to his close relationship to Southern Utah Wilderness Alliance, you would order

a new trial. Maybe you would ask Brian Steed or Ed Roberson, national and state directors of the BLM, to simply answer the question whether the BLM has a Title V road in Recapture Canyon. I have asked them and they both say that the only road in the canyon is the county road, but because of their solicitors they are not able to say it publicly. Instead they engage in deliberate and blatant false speech in order to cover their misstep.

What a travesty this has been. I recognize that there are criminals in the world, but I also know that I am not one of them and that I did everything possible to ensure that the protest was carried out legally and peacefully and, foremost, to ensure that members of my community were above reproach in the way they carried out the protest. Perhaps a more productive conversation would start by asking the question "why would 1,000 people from a town of 4,300 show up to protest in the first place?" The object of the protest was not the illegal closure of a road, but a barbaric raid by federal agencies on their hometown. In the decade since the raid, the BLM has been forced to acknowledge that their Law Enforcement Officer of the year, Dan Love, was in fact the psychopath that our community knew him to be. It took him sending pictures of his feces to coworkers along with pictures of his girlfriend's genitals. It took him threatening his coworkers and their families with "grenades" and exposing them for their participation in illicit acts. It took him, demanding backstage passes for him and his family to the Burning Man Festival, letting his girlfriend use his federal vehicle, and requiring that the sponsors of the event keep his personal freezer stocked with Chaco-Tacos before the BLM finally took official action. Where is Dan Love now? Is he in jail? Is he still drawing a government paycheck? Even the secretary of the interior claims to not know the answer to those questions.

Knowing that this information I am providing can and will be used against me, I will not provide any more information about my financial situation in this brief. All I will say is that my enemies would be proud to know the extent of my financial expense to contend with a completely manufactured narrative of vigilantism, racism, recklessness, destruction, etc., etc., etc., ad nauseum. The fact that Ms. Moon goes to great public expense and time to argue that I have had a pay increase by changing from County Commissioner to State Representative should be evidence enough that her interest is not justice but exposing me to even more public derision. Could it be that this has come about because I am a newly elected state representative on the opposite of Ms. Moon politically? This is not a social media defamation, (which is also out of control), but an attack from the so-called highest court in Utah, the U.S. Department of Justice. With unlimited resources they come after me. Why? Is it because I trespassed in Recapture Canyon? Even John Huber acknowledged, after the conviction, that I did not trespass. Was it because I conspired, or lured others to trespass? Again Mr. Huber acknowledged, after my conviction, that I did not invite militia or encourage trespass. The truth is that the BLM manufactured a crime where there was absolutely no criminal intent or even an actual crime. Who would take the time and deliberate steps to organized with the Highway Patrol, the sheriff, the local highway authority with jurisdiction of the county road, and with the BLM - the entity against whom we are protesting, if their intent were criminal? The entire premise of the U.S. Attorney's office is deranged. The only objective of the KSL story (and hundreds just like it) and the U.S. Attorney's motion is to undermine my reputation - the culmination of my life of effort to honestly serve those around me and to defend those who are not able to defend themselves. In an environment where good people are considered guilty by accusation, the U.S.

Attorney's office and the Department of Justice should work harder to keep their politics out of their workplace rather than using their workplace as a platform for launching a false fury of lies to ruin the lives of innocent people who happen to hold a different political view. If due process is not adequate to achieve the conviction they seek, then maybe a conviction should not be their goal. Maybe the truth should enter into the equation at some point. When tyranny is supported by the court system, and redress of wrongs by a community or their elected representative is met with choreographed targeting and defamation, is not peaceful protest an acceptable means of seeking redress of legitimate grievances? Are not the antics of a bad actor like Dan Love, that resulted in the death of several people and the tearing apart a community, deserving of censure? Don't honest people have rights too?

I was compelled to run for commissioner because of the bullying tactics that I witnessed being used by the BLM upon my community and upon my neighbors. Through my own experience I am convinced that the problem lies in the false narrative that is being promulgated by those with an environmentalist bent. If these people work for the BLM, or the U.S. Attorney's office, or if they are a federal Judge, that is fine, but when they use their position to further their own ideology, they undermine the integrity of a system that is built on objectivity. Bias in the media is one thing. Slander is one thing. But back room collusion between the media, the U.S.

Attorney, the BLM solicitors, SUWA, and the Federal Judge controlling a manufactured criminal case is not okay.

If you plan to amend the terms of my restitution, the correct thing would be to reverse the order altogether and to order an investigation into the methods and motivations employed by

the U.S. Attorney and his staff going back to the 2007-2010 prosecution of Ken Brown and Dustin Felstead of Blanding, and the 2009 raids on the homes of 26 people from Blanding, to the prosecution of the 5 men from Blanding in connections with Recapture, and the recent assault on the town of Blanding in the form of federal gerrymandering. If you plan to take any other action, my only request would be to allow for a new hearing in advance of your decision.

Dated this 20th day of March 2019.


Representative Phil Lyman


CC: Joh Huber & Allison J.P. Moon,
U.S. Attorney's office
111 Main Street, Suite 1800
Salt Lake City, UT 84111-2176

CERTIFICATE OF SERVICE

I hereby certify that I mailed ^{2 copies} ~~a copy~~ of this **Motion to Deny the Request to Amend the Manner and Schedule of Payment of Restitution** to Clerk of the Court, 351 S W Temple, Salt Lake City, UT 84101.

03/20/2019

Date


/s/ Phillip Kay Lyman

Signature

Copy mailed to: United States Attorney's Office
185 South State Street, Suite 300
Salt Lake City, Utah 84111

Office of the United States Attorney
111 Main Street, Suite 1800
Salt Lake City, UT 84111-2176

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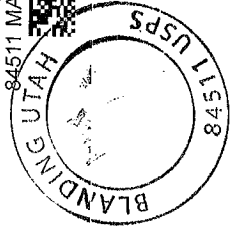
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